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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,778	03/23/2004	Craig M. Thoms	KCX-504-CON (17359.1)	2382
22827	7590	08/04/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			BOLLINGER, DAVID H	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,778

Applicant(s)

THOMS, CRAIG M.

Examiner

David H. Bollinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 through 3, 5 through 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller.

Masui teaches a dispenser for dispensing sheets comprising: a dispensing container 1 housing a stack of disposable sheets arranged such that once a top sheet is withdrawn an underlying sheet is individually presented for subsequent use; the dispensing container including a removable panel 6 that when removed uncovers an opening, comprising a slit, for withdrawing the sheets, the removable panel being configured to be completely removed and separated from the dispensing container and being attached to the top sheet in the stack of sheets so that when the removable panel is removed and separated from the container the top sheet is pulled through the opening of the container. See Figures 1, 3 and 4. See also column 2 line 10 through column 3 line 12.

Masui fails to clearly teach the top sheet attached to the removable panel being detached from the removable panel when the top sheet is partially pulled through the opening. The fact the top sheet is only partially withdrawn and detached from the removable panel is merely an intended manner of use for the device which a user may do so as to not waste the first dispensed sheet and does not represent a patentable departure from the prior art structure of the device. However,

Rockefeller teaches the leading edge of a first sheet in a sheet dispensing container being attached to a removable panel 24 (see Figures 15 and 16) to pull out a length of the sheet so that it may be gripped (see column 5 lines 10-17). This implies the removable panel does not or may not necessarily completely remove the entire first sheet before it becomes detached from the removable panel. Accordingly, it would have been obvious to one of ordinary skill in the art to provide Masui with a removable panel to which the first is attached in such a manner that the panel becomes detached after separation from the container, but before the entire first sheet is removed from the container thereby avoiding the waste of the first sheet because it remains attached to the removed panel. Further, Rockefeller teaches the sheet material dispensed may be wet-wipes (premoistened towellelettes); therefore, it would have been obvious to one of ordinary skill in the art that the sheets of Masui may comprise wet-wipes.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller as applied to claims 1 through 3, 5 through 10 and 12 above, and further in view of Loppnow et al.

Masui, as modified by Rockefeller, teaches everything except the specific folding of the top sheet.

Loppnow et al teach a manner of folding interfolded sheets for dispensing (see Figure 1) where the top sheet has a first end 38, which is folded upon itself at least twice (at 28 and 36).

It would have been obvious to one of ordinary skill in the art that the interfolded stack in the Masui-Rockefeller dispenser be comprised of the stack taught by Loppnow et al which clearly illustrates at least one way sheets may be interfolded for dispensing. This is considered the substitution of one interfolded sheet stack for another.

4. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller as applied to claims 1 through 3, 5 through 10 and 12 above, and further in view of Pierson et al.

Masui in view of Rockefeller teaches everything except the dispensing container is in the shape of a square box and is made of paperboard.

Pierson et al teach such a dispensing box may be in the shape of a square box (cubical) and being made of paperboard (cardboard). See column 2 line 68 through column 3 line 1.

It would have been obvious to one of ordinary skill in the art to construct the box of the Masui-Rockefeller dispenser in the shape of a square box (cube) and of paperboard (cardboard) in light of the teachings of Pierson et al that such boxes can be so constructed.

5. Claims 14 through 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller as applied to claims 1 through 3, 5 through 10 and 12 above, and further in view of McCarthy.

Masui in view of Rockefeller teaches everything except the dispensing container is made of a polymer.

McCarthy teaches that dispensing containers similar to that of Maui may be constructed of various materials including a polymer (plastic). See column 5 lines 10-17. It should be noted that McCarthy also teaches the sheets dispensed may be wet-wipes (see column 5 lines 4-9).

It would have been obvious to one of ordinary skill in the art to construct the container of the Masui-Rockefeller dispenser from a polymer as taught by McCarthy.

6. Applicant's arguments, see response, filed 19 July 2006, with respect to the rejection of claims 1 through 3, 5 through 10 and 12 under 35 USC 102(b) as anticipated by Masui have been fully considered and are persuasive. The rejection of claims 1 through 3, 5 through 10 and 12 as anticipated by Masui under 35 USC 102(b) has been withdrawn.

However, applicant's arguments fail to be persuasive as to the rejection of claims 1 through 3, 5 through 10 and 12 under 35 USC 103(a) as being obvious over Masui in view of Rockefeller.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Bollinger whose telephone number is 571-272-6935. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David H Bollinger
Primary Examiner 8/2/06
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